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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,537	02/07/2002	Marie Hayet	056159-5005	7836

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/067,537

Applicant(s)

HAYET ET AL.

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/10/05; 3/8/05; 6/27/05; 3/10/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/27/05; 3/10/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant amended claims 1-3, 5, and 7-9, newly added claims 11-13, and canceled claim 4, 6, and 10. In light of the aggregate amended subject matter and claim additions, all pending claims 1-3, 5, 7-9 and 11-13 were examined in this final office action necessitated by amendment.

Response to Arguments

Applicant's arguments, see Remarks, filed 10 January 2005, with respect to the rejection(s) of claim(s) 1-3, 5, 7-9 and 11-13 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Burge and Bieganski. Arguments relying upon Suzuki as the primary prior art reference are moot.

Claim Objections

1. Claims 9 and 13 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 can be infringed without infringing claim 1.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 2. Claims 1-3, 7-9, and 11 are rejected under 35 USC 103(a) as being unpatentable over Burge (US 6,014,638) in view of Bieganski (Paper #20041001, US 6,321,221).**

Burge teaches a system and method serving as an electronic intermediary between shoppers and merchants that customize shopping content and presentations based on the shopper's preferences using a predictive modeling application. The predictive model uses historical data maintained in the shopper's profile and other information to make purchasing suggestions to the shopper (see at least abstract; Fig. 1; Figs. 2A-2B; cols. 1-3). Burge further teaches:

- (a) a client interacts with an electronic shopping system to indicate his willingness to purchase goods, whereby said interaction optionally involves the addition of further background information to the system and/or the addition of order specific information to the system;
consumer makes selections (i.e. interacts to make product selections) while navigating various shopping sites; creates profile (see at least col. 6, line 26-col. 7, line 37).
- (b) the shopping system electronically produces a suggestion of the order for said client based on:

- (b1) information concerning goods which are available for ordering, their prices and optionally further information relating to said goods; user selections (i.e. feedback to the system) are received by the system; uses the predictive model to determine display to the user based in part on user selections of products and merchant options from the merchant options database (see at least Fig. 2B (12, 20, 22, 30, 32 and 34)).
- and (b2), information concerning the historic purchasing behavior of said client; uses the predictive model to determine display to the user based in part on information from the shopper's profile managed by the user profile database (see at least Fig. 2B (18, 30 and 36)); the system monitors and records an on-line user's navigation choices, content preferences, shopping purchases, etc. The present invention combines this knowledge of the user's on-line behavior with known information about the user's age, gender, and other personal details to arrive at an electronic profile of the user (see at least col. 3, lines 1-12).
- and optionally (b3) background information of said client; user profile contains background information as noted above (e.g. age, gender, other personal details) (see at least Fig. 2B (18, 30 and 36)).

Burge teaches all the above as noted under the 103(a) rejection and further teaches

"in general, content and presentation of content are not tailored to individuals' needs and preferences even when users are navigating through sites related by a common theme such as investing money, weather information, or recent political event. Therefore, the system and method of the present invention may be applied to a number of areas, such as those listed above, in which the tailoring of content and presentation of content to an individual user will enhance an on-line service user's experience." see col. 3, lines 20-29.

Although Burge does not disclose optionally using (b4) environmental information, it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain "tailoring content" based upon weather information and/or political events (i.e. special events) is environmental information as defined by the Applicant's instant specification. Please note: environmental information is managed by electronic sites.

- and (c) said client reviews said suggestion of the order and optionally electronically amends said order followed by optionally electronically placing the order; shopper receives suggested order information for viewing (see at least Fig. 2B (10, 46, 48, and 50); col. 4, lines 15-17; col. 9, line 10); purchasing (see at least col. 4, lines 15-17; col. 9, line 10; col.10, lines 14-26). Although Burge does not specifically mention

the client optionally amending the order, Burge's invention meets the needs and preferences of individual shoppers because it allows the shopping environment and experience to be customized or tailored for each shopper (see col. 2, lines 54-67) and further teaches presenting shopping options to view or to make a purchase. It would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain amending a suggested order by Burge's system will result in another customized display as a result of the changes made.

- and wherein said method comprising the use of a system according to claim 1.

- first electronic storage means; Merchant products and services database (see at least Fig. 2B (22)).
- second electronic storage means; User Profile Database maintains historic information (see at least Fig. 2B (18)).
- third electronic storage means; User Profile Database maintains background information.
- fourth electronic storage means; see above pertaining to storage means for environmental information.
- interaction means; as previously noted.
- order prediction means; uses predictive modeling (see at least Fig. 2B (38, 40); col. 8, lines 21-48).

- goods; merchant good (see at least col. 9, line 67); applies to a variety of products (see at least col. 6, lines 38-41). Please note: super-market offers no distinguishing subject matter.

Burge teaches all the above as noted under the 103(a) rejection and teaches i) using predictive modeling to tailor responses to customers in order to provide a beneficial shopping experience, ii) using frequency data as input to the predictive model, and iii) using sequence data (i.e. the order in which the shopper makes selections) as input to the predictive model (see at least col. 6, lines 49-67), but does not disclose presenting the lists in ranked order based on estimated probability. On the other hand, Bieganski teaches weighted recommendations, purchase frequency, making recommendations based on estimated probabilities, and numerically valued items implicitly ranked. Bieganski further teaches the highest ranked recommendation having the highest probability of being correct (e.g. grocery store recommendations) (see at least abstract; col. 2, line 58 through col. 3, line 16). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the system and method of Burge to present recommendations in an ordered manner by numerical value, frequency, or estimated probability as taught by Bieganski, in order to more accurately assist the consumer with purchases, and thereby increase sales for the service.

Although Burge does not disclose providing in-store purchase advice, Bieganski teaches a music store recording all music purchases by customers,

and using that information as user item preference information. The music store then provides serendipitous recommendations for new music albums, perhaps in a newsletter or through an information kiosk located in the store or through a web based interface (see at least col. 17, line 65-col. 18, line 3). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the system and method of Burge to present recommendations (i.e. advice) via an in-store kiosk as taught by Bieganski, in order to provide the benefits of a tailored shopping experience to both online and in-store shoppers.

- 3. Claims 5, 12, and 13 are rejected under 35 USC 103(a) as being unpatentable over Burge (US 6,014,638) and Bieganski (Paper #20041001, US 6,321,221) as applied to claims 1, 2, and 9, further in view of Pyo (Paper #20041001, US 6,636,836).**

Burge and Bieganski teach all the above as noted under the 103(a) rejection and teach i) using a predictive modeling application to make suggestions to a consumer, and ii) making the recommendation list to the consumer, but does not disclose predictive methods. Pyo teaches a system of software components providing a variety of analyzing methods to achieve better predictive results (see at least abstract; col. 1, line 8 through col. 2, line 67). Pyo further teaches at least rule-based, regression, collaborative filtering, content filtering, neuron network theory, and statistical theory methods (see at least col. 8, lines 32-44). Therefore it would have been obvious to one of ordinary skill in the art at time of the

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invention was made to modify the system and method of Suzuki to implement a variety of predictive methods as taught by Pyo, in order to achieve better predictive results, and thereby provide a beneficial shopping experience to consumers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Robert M. Pond', is positioned above the printed name.

Robert M. Pond
Patent Examiner
August 8, 2007